IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE P.R.RAMAN

MONDAY, THE 16TH JULY 2007 / 25TH ASHADHA 1929

CRP.No. 2261 of 1993(G)

CC.227/1991 of TALUK LAND BOARD, NEDUMANGAD

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REVN. PETITIONER:

STATE OF KERALA

BY GOVERNMENT PLEADER SRI.THOMAS JOHN AMBOOKEN

RESPONDENTS:

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1. J.KAMALAMMA, T.C.NO.10/962,
CHARACHIRA, NANTHANCODE, TRIVANDRUM. (EXPIRED).

ADDL. 2. SRI.SATHEESH KUMAR, T.C.11/1084, CHARACHIRA,
WATSLANE, NANTHANCODE, KAWDIAR P.O.,
THIRUVANANTHAPURAM.

3. SMT.SARALA, T.C.11/1085, CHARACHIRA, WATSLANE,
NANDANCODE, KAWDIAR P.O., THIRUVANANTHAPURAM.

(ADDL. RESPONDENTS ARE IMPLEADED AS THE LEGAL HEIRS OF THE DECEASED RESPONDENT VIDE ORDER DATED 16.6.2005 IN IA.2132/04 IN CRP.2261/93).

BY ADV. SRI.V.PHILIP MATHEW

THIS CIVIL REVISION PETITION HAVING BEEN FINALLY HEARD ON 16/07/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

P.R. RAMAN

C.R.P. NO. 2261 OF 1993

DATED THIS, THE 16TH DAY OF JULY, 2007.

O R D E R

This revision is directed against Proceedings No. B6.CC.227/91/ TLB/NDD of the Taluk Land Board dated 30.9.1992. The Taluk Land Board, by its proceedings dated 30.4.1976, accepted the statement filed by the declarant J. Kamalamma and an extent of 13.79 acres were exempted under Section 81(1) of the Kerala Land Reforms Act, as rubber plantation. Subsequent to the introduction of Section 85A of the Act, the same was sought to be re-opened by issuing notice on the ground that Rubber Board Registration was not produced in the case while granting exemption. But the notice was not accepted and returned unclaimed. Though the declarant was asked to produce the Rubber Board Registration certificate, she did not produce the same. However, the Taluk Land Board, based on the materials available on record, found that there is no irregularity in the proceedings dated 30.4.1976. Hence this revision petition.

2. After filing this revision petition, notice was served to the said respondent Kamalamma which was returned unserved as unclaimed and

enquiries made revealed that she died as early as in 1994. The specific averment made by the Assistant Secretary, Land Board, in the impleading petition is that "subsequent on verification found that the sole respondent in the case has expired during the year 1974 itself leaving her two children as legal heirs." Therefore, as on the date on which the original order was passed, the declarant died. Therefore, even the notice issued was on a dead person and so there could not have been any valid re-opening of the matter even otherwise without issuing notice to the legal heirs. Since the reopening of the case itself is not valid in law, dropping such a proceedings is perfectly justified, though on different grounds. The Taluk Land Board found that there was no irregularity in the matter of exemption. But however, I find that the order cannot be revised as the order of reopening was passed earlier in the absence of any issuance of notice to the legal representatives. There is no reason for any ground for reopening the case as the time has expired.

I find no grounds to allow this civil revision petition. It is dismissed.

P.R. RAMAN,
(JUDGE)

knc/-

P.R. RAMAN, J.
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C.R.P. NO. 2261/1993
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O R D E R

16TH JULY, 2007.